IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Carl McCormack, Sr.;) C/A No. 3:05-2535-CMC-JRM
Denise McCormick;)
Carl McCormick, Jr.;)
Shenise McCormick,)
Plaintiffs))
v.	OPINION AND ORDER
PSNC Energy d/b/a SCANA and SCANA)
Energy Corporation; and)
Watkins Heating and Conditioning of)
Creedmore d/b/a Watkins Heating and)
Air Conditioning, Inc.,)
Defendants.)))

In accordance with this court's order of reference and 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(e), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge Joseph R. McCrorey.

The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) stating that "in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." (quoting Fed. R. Civ. P. 72 advisory committee's note).

Based on his review of the record, the Magistrate Judge has recommended that the action be dismissed without prejudice against Defendant Watkins pursuant to Federal Rule 4(m) for failure

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of Plaintiffs to serve Defendant Watkins. The Magistrate Judge advised Plaintiffs of their right to

file objections to the Report and the possible consequences if they failed to do so. Plaintiffs have

filed no objections and the time for doing so has expired.

After reviewing the Complaint, the complete record, and the Report and Recommendation

of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and

Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it

is

ORDERED that this action is *dismissed without prejudice* against Defendant Watkins

pursuant to Federal Rule 4(m) for the failure of Plaintiffs to serve Defendant Watkins.

The record shows that the only other Defendant in the case, PSNC Energy d/b/a SCANA and

SCANA Energy Corporation, was previously dismissed. Therefore, dismissal of the action against

Defendant Watkins effectively dismisses the entire case.

IT IS SO ORDERED.

s/ Cameron McGowan Currie

CAMERON MCGOWAN CURRIE UNITED STATES DISTRICT JUDGE

Columbia, South Carolina October 31, 2006

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